

House Bill 136 (AS PASSED HOUSE AND SENATE)

By: Representatives Coan of the 101<sup>st</sup>, Shaw of the 176<sup>th</sup>, O'Neal of the 146<sup>th</sup>, Rogers of the 26<sup>th</sup>, Millar of the 79<sup>th</sup>, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Code Section 13-8-2 of the Official Code of Georgia Annotated, relating to  
2 contracts contravening public policy generally, so as to provide that any contract which  
3 imposes certain taxes or fees on an insurance company for certain services shall be deemed  
4 to be contrary to public policy and unenforceable; to provide that any provision of a contract  
5 which provides for indemnification against liability for damages arising out of bodily injury  
6 to persons, death, or damage to property caused by an indemnitee or its, his, or her officers,  
7 agents, or employees in connection with a contract or agreement relative to the construction,  
8 alteration, repair, or maintenance of a building structure, appurtenances, and appliances is  
9 against public policy, void, and unenforceable; to provide for related matters; to provide for  
10 applicability; to provide an effective date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 SECTION 1.

13 Code Section 13-8-2 of the Official Code of Georgia Annotated, relating to contracts  
14 contravening public policy generally, is amended as follows:

15 "(a) A contract which is against the policy of the law cannot be enforced. Contracts  
16 deemed contrary to public policy include but are not limited to:

- 17 (1) Contracts tending to corrupt legislation or the judiciary;  
18 (2) Contracts in general restraint of trade, as distinguished from contracts in partial  
19 restraint of trade as provided for in Code Section 13-8-2.1;  
20 (3) Contracts to evade or oppose the revenue laws of another country;  
21 (4) Wagering contracts; or  
22 (5) Contracts of maintenance or champerty.

23 (b) A covenant, promise, agreement, or understanding in or in connection with or collateral  
24 to a contract or agreement relative to the construction, alteration, repair, or maintenance of  
25 a building structure, appurtenances, and appliances, including moving, demolition, and

1 excavating connected therewith, purporting to require that one party to such contract or  
2 agreement shall indemnify, or hold harmless, insure, or defend the other party to the  
3 contract or other named the promisee indemnitee, including its, his, or her officers, agents,  
4 or employees, against liability or claims for damages, losses, or expenses, including  
5 attorney fees, arising out of bodily injury to persons, death, or damage to property caused  
6 by or resulting from the sole negligence of the promisee indemnitee, or its, his, or her  
7 officers, agents, or employees, or indemnitee is against public policy and is void and  
8 unenforceable, provided that this subsection shall not affect the validity of any insurance  
9 contract, workers' compensation, or agreement issued by an admitted insurer. This  
10 subsection shall not affect any obligation under workers' compensation or coverage or  
11 insurance specifically relating to workers' compensation, nor shall this subsection apply  
12 to any requirement that one party to the contract purchase a project specific insurance  
13 policy, including an owner's or contractor's protective insurance, builder's risk insurance,  
14 installation coverage, project management protective liability insurance, an owner  
15 controlled insurance policy, or a contractor controlled insurance policy."

## 16 SECTION 2.

17 This Act shall not be applied to impair any obligation of contract or agreement entered into  
18 prior to the effective date of this Act, but this Act shall apply to any contract entered into,  
19 extended, or renewed on or after such date.

## 20 SECTION 3.

21 This Act shall become effective on July 1, 2007.

## 22 SECTION 4.

23 All laws and parts of laws in conflict with this Act are repealed.